

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO**

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Case Title: Francisco Javier Jayme

Case Number: 04-17779

Document Information

Description: Motion By Creditor Chase Manhattan Mortgage . For Relief From Stay As To 105 Thoroughbred Ct, Santa Teresa, NM Filing Fee \$ 150.00 Receipt # 14574-rt.

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Submitted By: Karen Weaver

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**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW MEXICO**

IN RE:

FRANCISCO JAVIER JAYME, SSN: ____-____-7644,

Debtor.

No. 13 04-17779 ML

**MOTION FOR RELIEF FROM AUTOMATIC
STAY AND TO ABANDON PROPERTY TO
CITIBANK, N.A., AS TRUSTEE C/O CHASE MANHATTAN MORTGAGE AS
SERVICING AGENT**

COMES NOW Citibank, N.A., as Trustee c/o Chase Manhattan Mortgage as servicing agent, (hereinafter referred to as “Chase”), by and through its attorneys, Little & Dranttel, P.C. (Karen Howden Weaver), and requests the Court to enter an Order Lifting Automatic Stay and for an Order abandoning certain property. As grounds therefor, the Movant, states:

1. This Court has exclusive jurisdiction over this proceeding pursuant to 11 U.S.C. § 362, 11 U.S.C. § 554, 28 U.S.C. § 157, and Bankruptcy Rule 4001 and 6007.
2. This Court has proper venue over this proceeding pursuant to 28 U.S.C. § 1409.
3. Debtor Francisco Javier Jayme filed a Chapter 13 Bankruptcy petition on October 25, 2004.
4. Kelley Skehen is the Chapter 13 Trustee assigned in this Bankruptcy case.
5. On October 29, 2002, Francisco Jayme a/k/a Francisco Javier Jayme a/k/a Francisco J. Jayme, executed an Adjustable Rate Note in the amount of \$462,000.00, plus interest at the rate of 8.6250%.

6. A Mortgage was simultaneously executed on October 29, 2002, which was duly recorded at the Dona Ana County Clerk's office on November 1, 2002, in Book 373, at Pages 850-870, as Document No. 32671.

7. The subject premises is all the collateral listed in the Mortgage, including but not limited to the real property more fully and completely described as:

Lot 17 in Block 3 of Los Ranchos Del Rio, located in the City of Sunland Park, Dona Ana County, New Mexico, as the same is shown and designated on the plat thereof filed for record in the office of the County Clerk of Dona Ana County, New Mexico on November 27, 1984 and recorded in Book 13 at Pages 344-345, Plat Records,.

including any improvements, fixtures, and attachments, such as but not limited to, mobile home.

If there is a conflict between the legal description and the street, the legal description shall control. The real property in issue is generally identified as having the address of 105 Thoroughbred Court, Santa Teresa, New Mexico 88008.

8. Chase is the servicer for the holder of the Adjustable Rate Note and Mortgage.

9. Chase claims a first lien and/or encumbrance upon all the collateral as described in the Mortgage. Said Debtor, Francisco Javier Jayme, is in default on the Note due thereon.

10. The Debtor has two (2) post-petition payments at \$3,593.39 each, due from November 1, 2004 through December 1, 2004, totaling \$7,186.78, plus bankruptcy attorney fees in the amount of \$981.08, plus bankruptcy attorney costs in the amount of \$150.00, for a total of \$8,317.86, plus accrued interest and continuing fees and costs.

11. The stay should be lifted as to any claim that non-filing spouse, Alicia Rojas, may have in the subject property.

12. The principal amount due to Chase on its Adjustable Rate Note and Mortgage is \$457,696.12, plus interest in the amount of \$34,322.39, plus bankruptcy attorney fees in the amount of \$981.08, plus bankruptcy attorney costs in the amount of \$150.00, for a total of \$493,149.59, plus further costs and fees. Said property may also be encumbered by other liens which may exceed the fair market value of the property including the lien of the first mortgage holder.

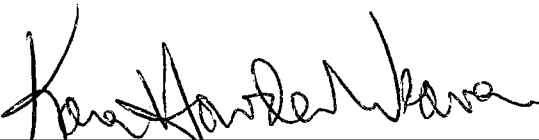
13. The property may be burdensome to the estate and maybe of no consequential value and benefit to the estate.

14. Chase is entitled to have the Court lift the automatic stay and a ruling that USCS Bankruptcy Rule 4001(a)(3)(1999) is not applicable so that Chase may immediately enforce and implement relief from the automatic stay and foreclose on the subject property.

15. Counsel for Chase could not obtain concurrence from Debtor's counsel to the relief sought at this time. Counsel for Chase has not attempted to contact the Trustee, Kelley Skehen, as she will not approve such a motion without consent from all counsel being obtained prior to her review of such motion. As this motion is opposed, a Notice and Deadlines to File Objections is simultaneously submitted herewith.

WHEREFORE, Chase, respectfully requests the Court to enter an Order Lifting the Automatic Stay for all purposes to allow Chase to exercise its legal rights on its lien and for an Order abandoning said property.

LITTLE & DRANTTEL, P.C.

By 
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foregoing pleading was mailed to:

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on this 17th day of December, 2004


SHARON FERREL, Paralegal